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EXAMINER

EDWARDS, ANTHONY Q

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2835

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/765,806
Filing Date: January 27, 2004
Appellant(s): HOMER ET AL.

James L. Baudino, Reg. No. 43,486
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 19, 2005 appealing from the Office action mailed June 14, 2005.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

Art Unit: 2835

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-13, 20-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,532,147 to Christ, Jr. in view of U.S. Patent No. 6,700,773 to Adriaansen et al. ("Adriaansen" hereinafter). Referring to claims 1 and 13, Christ, Jr. discloses a computing device (see Figs. 7-9) comprising a base or second portion (22), at least one center module disposed on and coupled to the base or second portion (i.e., data entry member/keyboard), see col. 3, lines 45-47, a lid or first portion (24), and a hinge structure (84/86) having a clutch member (i.e., the holding or grasping means mentioned in col. 6, lines 20-24, which describes telescoping members (84/86) moving relative to each other and being "held fixed relation (*sic*) under frictional forces"). Although the "clutch" is not shown, the reference clearly describes a clutch mechanism that holds the telescoping members relative to each other within the hinge member (84/86). Furthermore, since the telescoping members move and are held relative to each other, Christ, Jr., also discloses the clutch member having a variable height operable to enable the lid to close over the at least one center module (i.e., keyboard). See Figs. 7-9 and col. 6, lines 20-28.

Art Unit: 2835

Christ, Jr. lacks the at least one center module on the base being a removable module. Andriaansen teaches providing at least one removable center module (143) coupled to a base (see Figs. 34-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the base of Christ, Jr. with a removable center module disposed thereon, as taught by Andriaansen, since the device of Andriaansen would provide the computing device of Christ, Jr. with alternate modes of data input.

Referring to claim 2, Christ, Jr. in view of Andriaansen disclose a computing device, wherein the hinge structure is further operable to enable the lid to close over the base with the at least one removable center module removed from the base. As shown in Fig. 7 of Christ, Jr., the hinge structure is indeed operable as claimed, since the same or an even lesser amount of space would be required when the removable center module is removed from the base.

Referring to claim 3, Christ, Jr. in view of Andriaansen disclose a computing device, wherein the clutch member, which is integrally formed within the hinge member, is operable to protrude above and beyond the base (20) at varying heights (see Figs. 7-9).

Referring to claims 4 and 5, Christ, Jr. in view of Andriaansen disclose a computing device as claimed. Although the embodiment shown in Figs. 7-9 of Christ, Jr. does not include a lock button, locking nib and notch, Figs. 2, 3a and 3b of said reference shows a computing device comprising at least one lock button (34) having a locking nib (52) operable to releasably engage at least one notch (63) defined in the clutch member (38). See col. 4, lines 27-33 of Christ, Jr.

Art Unit: 2835

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a lock button, locking nib and notch, as shown in Figs. 2, 3a and 3b of Christ, Jr., since this embodiment of Christ, Jr. provides a more controlled means of locking or engaging the clutch at various heights of the device.

Referring to claim 8, Christ, Jr. in view of Andriaasen disclose a computing device, wherein an opening (52) is defined in the base (20) to enable a user to manipulate the at least one lock button (34) toward and away from the clutch member. See Figs. 2, 3a and 3b of Christ, Jr.

Referring to claim 9, Christ, Jr. in view of Andriaasen disclose a computing device, wherein the hinge structure rotatively couples the lid to the base. See Fig. 10 of Christ, Jr.

Referring to claim 10, Christ, Jr. in view of Andriaasen disclose a computing device, further comprising a plurality of electrical components housed in the base, and the at least one removable center module is electrically connectable to the plurality of electrical components. See Figs. 35 and 36, as well as col. 16, lines 44-50 of Andriaason.

Referring to claim 11, Christ, Jr. in view of Andriaasen disclose a computing device, wherein the lid comprises a display screen. See col. 6, lines 7-16 of Christ, Jr.

Referring to claim 12, Christ, Jr. in view of Andriaasen disclose a computing device, wherein the at least one center module comprises a first center module (111) operable to be disposed on and coupled to the base and second center module (123) operable to be disposed on and releaseably coupled to the first center module (111). See Figs. 30-31 of Andriaasen. Christ, Jr. in view of Andriaasen also disclose a computing device having a hinge structure enabling the lid to close over the second center module.

Art Unit: 2835

See Figs. 7 and 8 of Christ, Jr., wherein the display (24) may be positioned at various heights in relation to the base (22) to allow the lid to close over both center modules as claimed.

Although Adriaansen does not specifically teach the first center module (111) operable to be releaseably or removably coupled to the base, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the computing device of Christ, Jr. in view of Andriaansen to include first and second center modules, both of which are releaseably coupled to the base, since this would allow for a greater variety of input devices to be interchangeably utilized in the computing device.

Referring to claim 20, Christ, Jr. in view of Andriaansen disclose a computing device as claimed. It has been held that claim limitations that employ phrases of the type “capable of” or “adapted to” or “for,” in relation to doing something, or performing a function, are not positive limitations, but only require the ability to so perform (see *In re Hutchinson*, 69 USPQ 138). In the present case, the space between the base (22) and the lid (24) is variable (see Figs. 7-9 of Christ, Jr.), and is therefore adapted to receive a plurality of different size removable center modules (i.e., modules having “varying thickness,” see paragraph 0014 of Appealant’s specification). The hinge structure (84/86) of Christ, Jr. is also adapted to accommodate different size modules between the base and the lid, since the distance or space between the base (22) and the lid (24) is variable.

Furthermore, as mentioned above, Andriaansen discloses a plurality of different sized removable modules with a base 107 (see Figs. 22 and 23), wherein the plurality of different size removable center modules include keyboard (110) having a first thickness

Art Unit: 2835

and digitizer (113) having a second thickness. The center modules of Andriaasnsen are removable since the keyboard is removed to use the digitizer, and the digitizer is removed to use the keyboard.

Referring to claim 21, Christ, Jr. in view of Andriaasen disclose a computing device, wherein the a hinge structure (84/86) comprises a clutch member (i.e., holding or grasping means mentioned in col. 6, lines 20-24, which describes telescoping members (84/86) moving relative to each other and being “held fixed relation (*sic*) under frictional forces”) adapted to protrude above the base at varying heights. Although the “clutch” is not shown, the reference clearly describes the hinge member (84/86) having a clutch mechanism that holds the telescoping members relative to each other at varying heights.

Referring to claim 22, Christ, Jr. in view of Andriaasen disclose a computing device as claimed, although the embodiment shown in Figs. 7-9 of Christ, Jr. does not include a lock button, locking nib and notch, Figs. 2, 3a and 3b of said reference shows a computing device comprising at least one lock button (34) having a locking nib (52) operable to releaseably engage at least one notch (63) defined in the clutch member (38). See col. 4, lines 27-33 of Christ, Jr.

As mentioned above, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a lock button, locking nib and notch, as shown in Figs. 2, 3a and 3b of Christ, Jr., since this embodiment of Christ, Jr. provides a more controlled means of locking or engaging the clutch at various heights of the device.

Referring to claim 23 Christ, Jr. in view of Andriaasen disclose a computing device, wherein the hinge structure comprises a clutch member operable to receive a lock

Art Unit: 2835

button to fasten the clutch member in one of a number of heights protruding above and beyond the base. See Figs. 2, 3a and 3b of Christ, Jr.

Referring to claim 25 Christ, Jr. in view of Andriaasen disclose a computing device, wherein the hinge structure rotatively couples the lid to the base. See Figs. 10-12 of Christ, Jr.

(10) Response to Argument

A. Standard

With respect to Appellant's arguments on pages 3-4 of the Appeal Brief, the same have been fully considered but they are not persuasive. In response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to modify the device of Christ, Jr. would be to provide the base of Christ, Jr. with a removable center module disposed thereon, as taught by Andriaansen, since the device of Andriaansen would provide the computing device of Christ, Jr. with alternate modes of data input.

B. Claims 1-5 and 8-13

With respect to Appellant's arguments regarding claim 1 on pages 5-6 of the Appeal Brief, as indicated in the above rejection, a clutch member is in fact taught by Christ, Jr., since holding or grasping means are mentioned in col. 6, lines 20-24 of the

Art Unit: 2835

reference. Said holding or grasping means allow telescoping members (84/86) to move relative to each other and then are “held fixed relation (*sic*) under frictional forces”.

Although the “clutch” is not shown, per se, the reference clearly describes the hinge member (84/86) having a clutch mechanism or member that holds the telescoping members relative to each other. Furthermore, since the telescoping members move and are held relative to each other, Christ, Jr., also discloses the clutch member having a variable height operable to enable the lid to close over the at least one center module.

With respect to Appellant’s arguments regarding claim 13 on page 6 of the Appeal Brief, as indicted in the above rejection, “first and second portions,” “at least one removable center module disposed on and coupled to the second portion,” “a hinge structure having a clutch member coupling the first and second portions,” as well as the clutch member having a variable height operable to enable the first portion or lid to close over the at least removable center module is disclosed by Christ, Jr. as modified.

With respect to Appellant’s arguments regarding claim 20 pages 6-8 of the Appeal Brief, as indicated in the above rejection, Appellant’s use of the term “adapted to receive a plurality of different modules” is not a positive limitation, but only requires the ability to so perform. As such, Christ, Jr. discloses the device as claimed.

Furthermore, the base (107) of Andriaasen (see Figs. 22 and 23), provides a plurality of different size removable center modules, which include keyboard (110) having a first thickness and digitizer (113) having a second thickness. The center modules of Andriaasnsen are removable since the keyboard is removed to use the digitizer, and the digitizer is removed to use the keyboard.

Art Unit: 2835

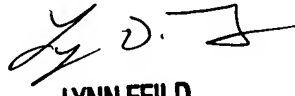
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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